

RECEIVED FOR ENTRY

APR 18 2005

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

A. Shantz
CLERK
DEPUTY CLERK

IN RE:)
ELECTRONIC CASE FILING) Administrative Order
PRACTICES AND PROCEDURES) No. 167

**ADMINISTRATIVE PRACTICES AND PROCEDURES
FOR ELECTRONIC CASE FILING (ECF)**

IT IS ORDERED that the attached Administrative Practices and Procedures for Electronic Case Filing are adopted for use in the United States District Court for the Middle District of Tennessee.

The complete text of the Administrative Practices and Procedures for Electronic Case Filing is available on the Court's web site at www.tnmd.uscourts.gov or may be requested by mail or in person at the United States District Court Clerk's Office, 801 Broadway, Room 800, Nashville, TN 37203.

IT IS SO ORDERED.

Robert L. Echols
ROBERT L. ECHOLS
Chief United States District Judge

Todd J. Campbell
TODD J. CAMPBELL
United States District Judge

Aleta A. Trauger
Aleta A. TRAUGER
United States District Judge

William J. Haynes, Jr.
WILLIAM J. HAYNES, JR.
United States District Judge

ADMINISTRATIVE PRACTICES AND PROCEDURES
FOR ELECTRONIC CASE FILING
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

1. Scope

Unless otherwise provided, these policies and procedures apply to all cases assigned by the Court to the Electronic Filing System.

2. Definitions

- 2.1 "Electronic Filing System" means the Court's automated system for receipt, retention and retrieval of documents filed in electronic form.
- 2.2 "Filing Error" means an error in submission of a filing to the Electronic Filing System, *e.g.*, a filing with an incorrect case number, with an incorrect docket entry or with the wrong PDF file attached to a docket entry.
- 2.3 "Filing User" means an individual registered with the Court to whom the Court has issued a login and password allowing the individual to access the Electronic Filing System for all permitted purposes.
- 2.4 "Notice of Electronic Filing" means the electronic notice generated by the Electronic Filing System which is e-mailed to participating Filing Users at the time a document is filed with the system. The Notice of Electronic Filing sets forth the time the document is filed, the names of the party and attorney filing the document, the type of document filed, the text of the docket entry describing the document as it will appear on the Court's docket, the name of each recipient of the Notice and an electronic link to the filed document allowing the recipients to retrieve the filed document.
- 2.5 "PACER" ("Public Access to Court Electronic Records") is an electronic public access service established by the Administrative Office of the United States Courts that allows access to federal court records, including those filed through the Electronic Filing System. Any person establishing a PACER account will be able to view, print and download information filed with the Electronic Filing System over the Internet.
- 2.6 "PDF" means Portable Document Format. PDF is the format in which electronically filed documents must be transmitted to the Electronic Filing System.

2.7 "Technical Failure" means a malfunction of the Court's Electronic Filing System or the telecommunications facilities through which the system is accessed which prevents a Filing User from filing a document electronically. Technical Failure does not include a malfunction of a Filing User's computer and/or telecommunications facilities which prevents a Filing User from electronically filing a document.

3. Cases Assigned To The Electronic Filing System

All civil, criminal and miscellaneous cases shall be assigned to the Electronic Filing System, unless exempted by the Court. Pro Se filers (e.g., a party not represented by an attorney) may not file electronically unless registered as a Filing User as provided in Section 7. Pro Se filers, unless authorized, are directed to file all documents on paper in the traditional manner.

4. Filing by Facsimile

The Clerk's Office will not accept any facsimile transmission unless ordered by the Court, in which case an original shall be promptly substituted.

5. Scope of Electronic Filing

5.01 General. Except as expressly provided herein, by local rule, by order of the Court or in exceptional circumstances, including a Technical Failure, a Filing User shall electronically file all documents required to be filed in all civil, criminal and miscellaneous cases.

5.02 Maximum Size of Filings. Filed documents cannot be greater than 2.5 MB in size. The system will alert the Filing User if the file is too large. Documents greater than 2.5 MB (approximately 40 pages) in size must be divided into separate documents less than 2.5 MB in size and should be filed as attachments to the primary document with an appropriate notation in the docket text.

5.03 Civil Complaints. Civil complaints must be filed by Filing Users on paper in the traditional manner and not electronically and must be accompanied by a disk or CD-ROM containing the document in PDF format. Attorneys are advised that, if there is a disparity between the paper document and the document on the disc or CD-ROM, the document provided on the disc or CD-ROM is controlling. All subsequent documents shall be filed electronically.

- 5.04 Charging Documents in Criminal Cases. Any indictment or information must be filed by Filing Users on paper in the traditional manner, not filed electronically, and must be accompanied by a disk or CD-ROM containing the documents in PDF format. Attorneys are advised that, if there is a disparity between the paper document and the document on the disc or CD-ROM, the document provided on the disc or CD-ROM is controlling. The electronic copy of charging documents, including the information, indictment, and superseding information or indictment, shall contain a scanned image of any legally required signature. All subsequent documents shall be filed electronically.

Criminal complaints shall be submitted to the Court on paper in the traditional manner and not electronically. Once the complaint has been properly executed and approved by the Court, it will be scanned in PDF format by the Clerk's Office.

- 5.05 Removal Documents. Notices of removal from State Court must be filed by Filing Users on paper in the traditional manner and not electronically and must be accompanied by a disk or CD-ROM containing the document in PDF format. Attorneys are advised that, if there is a disparity between the paper document and the document on the disc or CD-ROM, the document provided on the disc or CD-ROM is controlling. In addition, an electronic copy of all documents filed in the state court action, as required by 28 U.S.C. § 1441, *et seq.*, must be submitted on a disk or CD-ROM in PDF format. All subsequent documents shall be filed electronically.
- 5.06 Exhibits and Attachments. Filing Users shall file in electronic form all exhibits or attachments to filed documents, unless the Court permits filing in paper form.
- 5.07 Sealed Documents. A party seeking to file documents under seal must (1) electronically file a motion for leave of Court to do so via the Court's Electronic Filing System; and (2) by separate entry immediately thereafter, submit the proposed sealed documents by selecting the "Sealed Document" event option in the Court's Electronic Filing System. Any documents purported to be filed under seal without leave of Court will automatically become part of the public record. When documents are ordered to be placed under seal, the Clerk will officially file the documents and such documents will be electronically accessible only to the Court.
- 5.08 Proposed Orders. Any proposed orders should be included as an attachment to an electronically filed motion or other request for relief.

5.09 Administrative Record in Social Security Cases, State Court Record in Habeas Cases and Other Large Records. The administrative record in social security cases and the state court record in habeas cases shall be filed electronically, unless otherwise ordered by the Court. Upon approval of the Court, other large records may be filed on paper and not electronically.

5.10 Redaction of Personal Information from Complaint and Filed Documents. In compliance with the policy of the Judicial Conference of the United States, and the E-Government Act of 2002, and in order to promote electronic access to case files while also protecting personal privacy and other legitimate interests, parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal identifiers from all documents filed with the Court, including exhibits thereto, whether filed electronically or in paper, unless otherwise ordered by the Court.

(a) **Social Security numbers.** If an individual's social security number must be included in a document, only the last four digits of that number should be used.

(b) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of the child should be used.

(c) **Dates of birth.** If an individual's date of birth must be included in a document, only the year should be used.

(d) **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

(e) **Home Addresses.** If home addresses must be included in a document, only the city and state should be used.

Also in compliance with the E-Government Act of 2002, a party seeking to file a document containing the personal data identifiers listed above may, with permission of the Court sought pursuant to a motion to file under seal:

(a) file an unredacted version of the document under seal, or

(b) file a reference list under seal. The reference list shall contain the complete personal data identifier(s) and the redacted identifier(s) used in its place in the filing. All references in the case to the redacted identifiers included in the reference list will be construed to refer to the corresponding complete personal data identifier. The reference list must be filed under seal, and may be amended as of right.

The unredacted version of the document or the reference list shall be retained by the Court as part of the record. The Court may, however, still require the party to file a redacted copy for the public file.

The responsibility for redacting these personal identifiers rests solely with counsel and the parties. The Clerk's Office will not review each pleading for compliance with the required procedures.

6. Effect of Electronic Filing

Electronic transmission of a document to the Electronic Filing System, together with the transmission of a Notice of Electronic Filing from the Court, constitutes filing of the document for all purposes under the Federal Rules of Civil and Criminal Procedure and the Local Rules of this Court, and constitutes entry of the document on the docket kept by the Clerk under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55.

Each electronically filed document, as stored by the Court, becomes a part of the Court's official record and the filing party is bound by the document as filed. An electronically filed document is deemed filed as of the date and time stated in the Notice of Electronic Filing generated by the Electronic Filing System.

Filing a document electronically does not alter the filing deadline for that document. In order for a document to be considered timely filed on a deadline date, the filing must be completed on the deadline date before midnight (local time at the Court's location).

7. Registration and Passwords

Only a registered Filing User may electronically file documents with the Electronic Filing System.

Attorneys practicing before the Court, including those admitted pro hac vice and those authorized to represent the United States, shall, absent good cause shown, register as Filing Users of the Electronic Filing System. Registration shall be in the form prescribed by the Clerk and require each registrant's name, address, telephone number, Internet e-mail address and a confirmation that the attorney is admitted to practice before the Court. The registration form is available on the Court's web site at <http://www.tnmd.uscourts.gov/register.html>. Registrants shall also have a PACER account and certify that they have read the Electronic Case Filing Practices and Procedures and will abide by them.

A party to an action who is not represented by an attorney may, with the Court's permission, register as a Filing User solely for purposes of that action. Registration shall be in a form prescribed by the Clerk and shall require identification of the action as well as the party's name, address, telephone number and Internet e-mail address. If, during the course of the proceeding, the party retains an attorney who is a registered Filing User, the attorney shall, upon

entering an appearance, advise the Clerk to terminate the party's Filing User registration.

Registration as a Filing User constitutes consent to electronic service of all documents as provided herein, by the Local Rules of the Court and by any applicable rule of procedure.

Once registration is completed, the Court will send the Filing User an electronic confirmation of the assignment of a login and password.

No Filing User or other person may knowingly permit a Filing User's login and password to be used by anyone other than the Filing user or an authorized agent.

Filing Users agree to protect the security of their passwords and immediately notify the Clerk if they learn that their password has been compromised. Filing Users may be sanctioned by the Court for failure to comply with this provision.

In the event a Filing User believes the security of an existing password has been compromised and a threat to the Electronic Filing System exists, the Filing User shall immediately give notice by telephone to the ECF Help Desk at (615) 695-2888, (866) 720-TNMD, or (866) 720-8663 so the Clerk's Office can render the password invalid. Filing Users giving telephonic notice that a password has been compromised shall also confirm that notice electronically to cmecf@tnmd.uscourts.gov.

Training will be offered at the courthouse on a regular basis. Please see the Court's web site at <http://www.tnmd.uscourts.gov> for a current training schedule or call (615) 695-2888.

All attorneys admitted to the Court pursuant to Local Rule 1(c) after the effective date of these Administrative Practices and Procedures for Electronic Case Filing shall participate in Court approved Electronic Case Filing training within sixty (60) days of admission to the Court.

8. Signatures

Use of the login and password issued to a Filing User to effect the electronic filing of a document shall serve as the Filing User's signature on that document for all purposes, including those of Fed.R.Civ.P. 11.

Electronically filed documents shall set forth the Filing User's name, address, telephone number and Board of Professional Responsibility registration number. In addition, the Filing User's name shall be (1) typed in the space where the signature would otherwise appear preceded by the symbol "s/"; or (2) inserted by

facsimile signature.

A document containing the signature of a defendant in a criminal case may, at the option of the presiding Judge, be filed: (1) in paper form with an original written signature; or (2) in electronic form as a scanned image of the document containing an image of the defendant's original signature.

In order to file a document required to contain the signature of more than one person, the Filing User shall: (1) file a scanned image of the document containing all necessary signatures; (2) file the document without the requisite signatures but with a representation by the Filing User that all signatories have consented to the filing of the document; or (3) file the document in any other manner approved by the Court.

Documents requiring an original signature other than that of the Filing User (e.g., affidavits and declarations) shall be filed by transmitting a scanned image of the document to the Electronic Filing System in PDF format.

A non-filing signatory or party who disputes the authenticity of an electronically filed document containing multiple signatures must file an objection to the document within ten (10) days of the Notice of Electronic Filing.

9. Service of Electronically Filed Documents

Pursuant to Fed. R. Civ. P. 5(b)(2)(D) and Fed. R. Crim. P. 49(b), the Notice of Electronic Filing generated by the Court's Electronic Case Filing System (CM/ECF) shall constitute service of the electronically filed document on persons registered as Electronic Filing Users.

A certificate of service must be included with all electronically filed documents stating that service was made upon Filing Users through the Electronic Filing System and further stating how service was accomplished on any party or counsel not served through the Electronic Filing System.

Initial documents, such as a complaint and summons in a civil case, must be served in accordance with Rule 4 of the Federal Rules of Civil Procedure and not via the Court's Electronic Case Filing System (CM/ECF).

10. Notice of Court Orders and Judgments

Immediately upon the entry of an order or judgment in a case assigned to the Electronic Filing System, the Clerk shall electronically transmit to Filing Users participating in the case a Notice of Electronic Filing. Electronic transmission of the Notice of Electronic Filing by the Clerk to the participating Filing Users shall

constitute notice as required by Fed.R.Civ.P. 77(d) and Fed.R.Crim.P. 49(c). The Clerk shall give notice in paper form in accordance with the applicable rule of procedure to a party who has been exempted by the Court from participating in electronic service.

11. Filing and Issuance of Court Documents

All orders, decrees, judgments, and other court-issued documents shall be electronically entered in accordance with these procedures. Upon entry, such documents will be deemed to have been entered on the Court's docket under Fed.R.Civ.P. 58 and 79 and Fed.R.Crim.P. 49 and 55. Any order or other court-issued document entered electronically without the handwritten signature of a Judge or Clerk has the same force and effect as if the Judge or Clerk had signed a paper copy of the document and it had been entered on the docket in paper form.

The Court may enter text only orders as entries on the Court's docket without entering a separate PDF-based order in the Electronic Filing System. Such orders are complete as they appear on the docket and are official and binding upon the parties.

12. Technical Failures

A Filing User whose filing is made untimely as the result of a Technical Failure may seek appropriate relief from the Court.

13. Filing Errors

The Electronic Filing System will not allow a Filing User to correct a filing after it has been electronically submitted. Filing Users shall report Filing Errors to the Clerk's Office. If appropriate, the Clerk will make an entry in the Electronic Filing System indicating the document was filed in error. Filing Users may be required to re-file the document or may file a motion requesting relief.

14. Public Access

Members of the public may review docket sheets and unsealed documents contained in the Electronic Filing System at the Clerk's Office or through the Court's Internet site, www.tnmd.uscourts.gov, after opening a PACER account.

15. Retention Requirements

An electronically filed document that requires an original signature other than that of the Filing User (e.g., affidavits and declarations) shall be maintained in paper form by counsel representing the party on whose behalf the document was filed

for one year after all time periods for all appeals expire. On request of the Court, counsel must provide the original document for review.